(Spl. - H.C.A.S. C.D., 78-e)
FARAD CONTINUATION SHEET No.
IN THE HIGH COURT OF BOMBAY AT GOA
PANAJI – GOA
APPELLATE SIDE

MISC. CIVIL APPLICATION NO.396 OF 2004.

Office Notes, Office Memoranda of Quorum appearances, Court's orders, or directions and Registrar's orders.	Court's or Judge's Orders.

Mr. G. Shirodkar, Addl. Govt. Advocate for the applicants.

Ms. Pooja Naik Advocate for the respondent.

CORAM : A.P. LAVANDE, J.

DATE : 17th February, 2005.

P.C.

Heard Mr. Shirodkar, learned Addl. Govt. Advocate appearing for the applicants and Ms. Naik, learned Advocate appearing for the respondent.

2. By this application, the applicants seek condonation of delay of 25 days in filing the first appeal against Judgment and Award dated 26.12.2003, passed by the 1st Addl. District Judge, Margao. According to Mr. Shirodkar, learned Addl. Govt. Advocate appearing for the applicants,

there is sufficient cause for condoning the delay. The learned Counsel further submits that by the impugned Award, the reference Court has enhanced the compensation from Rs.2/- to Rs.8/- per sq. metre, and, therefore, this is a fit case in which this Court should scrutinise the Award passed by the reference Court. The learned Counsel further submitted that liberal approach must be adopted by the Court in condoning the delay and more particularly in land acquisition matters wherein the reference Court enhances compensation substantially. In support of his submission, Mr. Shirodkar relied upon the following Judgments :

(1)***Collector, Land Acquisition, Anantnag and anr. v. Mst. Katiji and ors.*** (AIR 1987 SC 1353);

(2) ***N. Balakrishnan vs. M. Krishnamurthy, (*** (1998) 7 SCC 123), and

(3)A***shok vs. Nagpur Improvement Trust, Nagpur*** [2004(4) Civil LJ 731)]

3. Per contra, Ms. Naik, learned Counsel appearing for the respondent submitted that there is absolutely no

cause shown for condoning the delay and the delay is inter-departmental. In support of her submission, learned Counsel relied upon the following Judgments ;

(1) ***Union of India vs. Tata Uodogawa Limited,*** (1988 (38) E.L.T. 739 (S.C.));

(2)***State of Tripura and ors. vs. Tripura Technical Employees' Association Agartala and anr. Etc.*** (2004 AIHC 2080);

4. I have considered the submissions made by the learned Counsel appearing for the parties. The Apex Court has time and again said that while considering applications for condonation of delay in appeals, the approach of the appellate Court should be liberal and the Court should see that substantial justice is done and a good cause should not be be lost on mere technicalities. In the present case, the reference Court has enhanced the compensation from Rs.2/- to Rs.8/- per sq. metre. Therefore, considering the principles laid down by the Apex Court in various Judgments, I am of the view that this is a fit in which the delay in filing the appeal should be condoned,

subject, however, to payment of costs, in favour of the respondent. Accordingly, the application is allowed. The delay of 25 days in filing the appeal is condoned, subject to payment of costs of Rs.1,000/- in favour of the respondent. The costs shall be paid or deposited within a period of four weeks from today.

The application stands disposed of in the aforesaid terms.

A.P. LAVANDE, J.

ssm